



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,222	03/29/2004	Gary W. James	METZ 2 00010	3032

27885 7590 04/27/2006

FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
----------	--------------

3637

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/812,222	Applicant(s) JAMES ET AL.	
	Examiner Janet M. Wilkens	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/14/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 13, "the first mounting wall" lacks antecedent basis. Also, it is misdescriptive to state that the first and fifth walls are in the same plane. It is the fifth and third walls that are in the same plane.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Vollmer. Vollmer teaches an adapter (Fig. 1) comprising: a first wall (11) having openings (17) with depressions, a second wall (12) depending normally from a first end of the first wall, a third wall (14) extending from the second wall and being parallel to the first wall, a fourth wall (13) depending normally from a second end of the first wall, and a fifth wall (15) extending from the fourth wall and being parallel to the first wall. The third and fifth walls include openings (16). Please note: limitations found in intended use/"for" statements have been given no weight in the claims.

Claims 1-5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Burrows et al. Burrows teaches an adapter (Fig. 1) comprising: a first wall (40) having openings, a second wall (26) depending normally from a first end of the first wall, a third wall (12) extending from the second wall and being parallel to the first wall, a fourth wall (24) depending normally from a second end of the first wall, and a fifth wall (20) extending from the fourth wall and being parallel to the first wall. The third and fifth walls include openings (22,16). Please note: limitations found in intended use/"for" statements have been given no weight in the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vollmer in view of Ferenzi. As stated above, Vollmer teaches the limitations of claims 1-4, including holes in the fifth wall. For claim 6, Vollmer fails to teach notches in the fifth wall. Ferenzi teaches the use of notches (62) in supporting a structure on a wall. It would have been an obvious consideration to modify the lower openings of the fifth and third walls, by using alternate opening in the walls, i.e. using notches, such as is taught by Ferenzi, instead of holes therein, since these openings are functional equivalents and either would work well in supporting (along with the necessary fasteners) the adapter on

Art Unit: 3637

a wall. Furthermore, because of the notches, the adapter of Vollmer in view of Ferenzi would be easily positionable on a vertical surface. For example, the adapter could be placed on the surface by aligning the notches with pre-placed fasteners on the surface and inserting them there over. Then the fasteners in the upper openings can be attached thereto to secure the adapter to the surface.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vollmer. As stated above, Vollmer teaches the limitations of claim 1, including a plastic adapter with walls. For claim 9, Vollmer fails to teach that the adapter is metal. The examiner takes Official notice that metal jewelry holders/adapters are well known in the art. Therefore, it would have been an obvious design consideration to modify the adapter by making it out of an alternate material, i.e. making it out of metal and not plastic as disclosed, depending on the desired need of the person constructing the adapter, e.g. depending on personal preferences, depending on the material readily available, depending on economic considerations, etc.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vollmer in view of Ferenzi. Vollmer teaches an adapter (Fig. 1) comprising: a first wall (11) having openings (17) with depressions, a second wall (12) depending normally from a first end of the first wall, a third wall (14) extending from the second wall and being parallel to the first wall, a fourth wall (13) depending normally from a second end of the first wall, and a fifth wall (15) extending from the fourth wall and being parallel to the first wall. The third and fifth walls include openings (16). For claim 12, Vollmer fails to teach that the adapter is placed on the side wall in a cabinet. Ferenzi teaches a

cosmetic cabinet with side walls (Fig. 1). It would have been obvious to add an adapter, such as is taught by Vollmer, on one of the side walls of the cabinet of Ferenzi, to provide an additional jewelry holder in the cabinet.

For claims 14 and 15, Vollmer in view of Ferenzi fails to teach notches in the fifth wall. Ferenzi further teaches the use of notches (62) in supporting a structure on a wall. It would have been an obvious consideration to modify the lower openings of the fifth and third walls, by using alternate opening in the walls, i.e. using notches, such as is taught by Ferenzi, instead of holes therein, since these openings are functional equivalents and either would work well in supporting (along with the necessary fasteners) the adapter on a wall. Furthermore, because of the notches, the adapter of Vollmer in view of Ferenzi would be easily positionable on a vertical surface. For example, the adapter could be placed on the surface by aligning the notches with pre-placed fasteners/lances on the surface and inserting them there over. Then the fasteners in the upper openings can be attached thereto to secure the adapter to the surface.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrows in view of Ferenzi. As stated above, Burrows teaches the limitations of claims 1-4, including holes in the fifth wall. For claim 6, Burrows fails to teach notches in the fifth wall. Ferenzi teaches the use of notches (62) in supporting a structure on a wall. It would have been an obvious consideration to add notches in the lower portions of the fifth wall of Burrows, such as is taught by Ferenzi, because the notches would allow the adapter to be easily positionable on a vertical surface. For example, the adapter could

be placed on the surface by aligning the notches with pre-placed fasteners/lances on the surface and inserting them there over. Then the fasteners in the upper openings can be attached thereto to secure the adapter to the surface.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burrows. As stated above, Burrows teaches the limitations of claim 1, including a plastic adapter with walls. For claim 9, Burrows fails to teach that the adapter is metal. The examiner takes Official notice that metal jewelry holders/adapters are well known in the art. Therefore, it would have been an obvious design consideration to modify the adapter by making it out of an alternate material, i.e. making it out of metal and not plastic as disclosed, depending on the desired need of the person constructing the adapter, e.g. depending on personal preferences, depending on the material readily available, depending on economic considerations, etc.

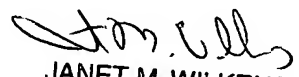
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
April 26, 2006


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637